

December 19, 2005

East Windsor

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# REGULATORY STRATEGIES FOR DISCUSSION

## Overview

In September 2005, the East Windsor Planning and Zoning Commission adopted a nine month moratorium in order to adopt new regulations intended to better guide residential development.

At a series of public meetings in October and November, the Commission decided on the following performance objectives for regulatory strategies:

### Zoning Regulations

- **Manage Single-Family Residential Development**
  - Encourage more flexible single-family development patterns
  - Adopt a buildable land / density regulation to manage growth
  - Leave the minimum lot size requirement intact
- **Manage Multi-Family Residential Development (MFD)**
  - Review MFD provisions in terms of lowering density / getting more open space / appropriate roads
- **Address Housing Needs**
  - Provide for more affordable housing units
  - Provide for fees in lieu of affordable housing

### Subdivision Regulations

- **Open Space Regulations**
  - Preserve more open space (quantity) [POCD says 20%]
  - Preserve more meaningful open space (quality)
  - Modify fee in lieu of open space provisions to make it work better
- **Road Standards**
  - Discourage inappropriate road standards
  - Reduce road widths
- **Sidewalk Standards**
  - Require sidewalks where recommended in POCD

Additional strategies related to modifying the Plan of Conservation and Development will be addressed separately.

This booklet is intended to present possible regulatory language to address these issues.

*This booklet is intended to provide potential regulatory language (for discussion purposes) to address development issues in East Windsor.*

*A few definition changes are recommended in the Zoning Regulations.*

## **Zoning Regulation Strategies**

### **Modify Section 4 - Definitions**

LOT AREA - The contiguous area contained within the property lines of the lot calculated by horizontal projection but excluding any part thereof lying within the boundaries of a public or private vehicular right-of-way either existing or proposed, ~~or having slopes in excess of 15%, or which are in areas of Special Flood Hazard as defined in Section 19 of these Regulations.~~

BUILDABLE AREA (LOT) - The contiguous area of a lot excluding any area classified as inland wetlands, watercourses, having slopes in excess of 15 percent, or which are in areas of Special Flood Hazard as defined in Section 19 of these Regulations. (NEW)

DEVELOPABLE AREA (PARCEL) - The area of a parcel of land being developed excluding any area classified as inland wetlands, watercourses, having slopes in excess of 15 percent, or which are in areas of Special Flood Hazard as defined in Section 19 of these Regulations. (NEW)

**Modify Section 18 - Residential Bulk and Area Requirements***No changes made except as follows:*

Zone	R-1	R-2	R-3	A-1	A-2
<b>Minimum Lot Requirements (5)</b>					
<u>Buildable Area - Sq. Ft. (3)</u>	20,000	25,000	30,000	43,560	80,000
<u>Density Factor (lots/acre)</u>	<del>2.00</del>	<del>1.50</del>	<del>1.00</del>	<del>0.50</del>	<del>0.25</del>

Zone	R-1	R-2	R-3	A-1	A-2
<b>Maximum Lot Requirements (5)</b>					
<u>Density Factor (lots/acre of developable area) if not a PRD development</u>	2.00	1.50	<u>0.90</u>	<u>0.45</u>	<u>0.20</u>
<u>Density Factor (lots/acre of developable area) if a PRD development in accordance with Section 20</u>	<u>n/a</u>	<u>n/a</u>	<u>1.00</u>	<u>0.50</u>	<u>0.25</u>

**Minimum Yard Requirements (5)***No changes made***Maximum Lot Coverage (5)***No changes made***Maximum Height Requirements***No changes made***Accessory Structure Requirements (5)***No changes made*

- (4) **Density Factor** - The maximum number of building lots permitted in a subdivision is determined by multiplying the developable area of the parcel (in acres) by the density factor for that zone. The density factor shall apply to all parcels of land that can yield more than four lots for subdivision or resubdivision. No parcel of land or lot shall have the density factor reapplied once the maximum lot yield has been reached for the original parcel of land that existed as of the effective date of this regulation.

Example: A proposed PRD development in an A-1 Zone with 10 acres of developable land on a 12 acre parcel

10 acres of developable land x 0.50 density factor = 5 lots maximum.

- (5) **PRD Developments** - Since, the Commission may modify the bulk and/or area standards in a PRD development (except for maximum height) based upon the amount of land preserved as open space, reference should be made to the approved subdivision plan for any lot created after (the effective date of this regulation).

*A density “bonus” has been provided for conservation developments created through the PRD regulation.*

*The PRD regulation has been modified to provide for more flexibility in design.*

## **Modify Section 20 - Planned Residential Development**

### **20.1. Purpose and Authority**

The purpose of this Regulation is to encourage variety and flexibility in residential land development, conservation of open spaces and scenic and natural resources, and imaginative site planning and architectural design.

The Planned Residential Development (PRD) is an open space/conservation subdivision regulation that is allowed in the ~~R-2~~, R-3, and A-1 and A-2 residential/agricultural zones, provided that a Special Permit is granted by the Commission for the location and development. The requirements and provisions of the existing zone shall apply, unless specifically noted-modified in this Section 20 as part of the PRD or specifically waived by the Commission as part of the subdivision approval in accordance with Section 8-26 of the CGS.

~~The Commission may waive any requirement of the Zoning Regulations, ...~~

### **20.2. Special Permit Requirements**

A Special Permit for a PRD shall not be granted until the applicant has proven and the Commission has determined that, in addition to the evaluation criteria of Section 2.7.4, all of the following conditions/requirements have been satisfied:

- a. That the location and size of the proposed use and the nature and intensity of use in relation to the size of the lot will be in harmony with the orderly development of the area and compatible with other existing uses.
- b. That the proposed plans have provided for the conservation of natural features, drainage basins, the protection of the environment of the area, and sustained maintenance of the development.
- c. That the design elements of the proposed development are attractive and suitable in relation to the site characteristics and style of other buildings in the immediate area, and that the proposed use will not alter the essential characteristics of the area.
- d. That streets providing access to the proposed use are adequate in width, grade, alignment and visibility, and have adequate capacity for the additional traffic generated by the proposed use.
- e. That the proposed use shall have easy accessibility for fire apparatus and police protection and is laid out and equipped to further the provision of emergency services.
- f. That the water supply, the sewage disposal, and the storm water drainage shall conform with accepted engineering criteria and comply with all standards of the appropriate regulatory authority.
- g. That the proposed plans have provided for the conservation of natural features, drainage basins, the protection of the environment of the area, and sustained maintenance of the development.
- h. That the proposed use will not have any detrimental effects upon the public health, safety, welfare, ~~or property values~~, and that the proposed use will not conflict with the purposes of the Regulations.

### 20.3. ~~Additional Requirements~~Recommended Procedure

Preliminary discussions, with staff and the Commission, of PRD developments are encouraged.

- ~~a. No PRD shall be established on a parcel of land that would yield more lots than a conventional subdivision.~~
- ~~b. Small parcels or parcels with excessive natural constraints may not be suitable for development as a PRD.~~

### 20.4. Application Requirements

For a Special Permit application to allow a PRD, the applicant shall submit:

- a. A general statement indicating the proposed dwelling unit types, the type of utilities to be provided, the means of preserving open spaces, and the types and uses of all non-residential structures proposed.
- b. A map of the entire PRD area showing the tract, existing topography, existing natural features, general soils classifications, and existing structures on the tract.
- c. A similar map showing the location of proposed structures and streets, public and private utilities, community facilities, open space and recreation areas, and phasing if the proposed development is to be developed in sections.

### 20.5. Open Space Requirements

- a. An application for PRD shall require a minimum of thirty percent (30%) of the total parcel as open space, parks, playgrounds, or other public purposes provided the land to be preserved:
  - shall be contiguous to other open space whenever possible,
  - is of a similar ratio of buildable land to unbuildable land as the entire subdivision or, in the opinion of the Commission, will preserve environmentally sensitive areas such as river corridors, wildlife sanctuaries or other natural features,
  - Is of sufficient size to make a meaningful contribution to the open space network, and
  - shall, at the option of the Commission, be dedicated to the Town, State, land trust, ~~association,~~ or other acceptable means recognized conservation organization with adequate controls to assure its maintenance and preservation.
- b. The Commission reserved the right to make the final decision on the suitability of open space land and the means of preservation.
- c. ~~preliminary discussions, with staff and the Commission, of PRD developments are encouraged.~~

*The more open space that gets preserved, the more dimensional flexibility can be achieved by a developer.*

## 20.6. Modification of Area & Bulk Requirements

~~The following lot area and bulk requirements shall be required in PRD developments:~~

~~Table deleted~~

~~If the applicant provides greater than 15% of the land as open space, the Commission may approve the reductions (waivers) to the bulk and area requirements of the zone, as shown in the table below. In addition, if the applicant offers 25% or more of the land in open space, the Commission may provide density bonuses as shown below.~~

~~Table deleted~~

~~In unique situations or when the applicant demonstrates better site design, the Commission may waive additional bulk and area requirements by a two-thirds vote of the Commission. However, building and impervious coverage shall be based on actual lot size and may not be waived by the Commission.~~

1. The Commission may, as part of the Special Permit for the PRD, modify certain area and bulk requirements of Section 18 for any lot or lots in a proposed PRD when:
  - a. more than thirty percent (30%) of the parcel is permanently preserved as open space, and
  - b. a substantial open space buffer along the undeveloped portions of existing roads is provided, where required by the Commission, and is deeded to the Town or a recognized conservation organization as permanently preserved open space.
2. Prior to modifying any such requirement of Section 18, the Commission shall make findings on the record that:
  - a. there will be a significant community benefit resulting from the additional open space that is being preserved in perpetuity, such as:
    - i. protection of important natural or scenic resources,
    - ii. preservation of a sizable area of open space,
    - iii. preservation of areas along Town or State roads that will protect rural appearance or character,
    - iv. establishment of an open space corridor or greenway or interconnection of existing open spaces, and/or
    - v. provision for public access, and
  - b. that there will be an appropriate visual buffer or separation to adjacent existing residential development, and
  - c. that the open space will not result in small or fragmented open space parcels that do not provide community benefits.

3. The Commission may, in its sole discretion and by a two-thirds vote of the Commission, modify the following requirements on a lot or lots within a proposed PRD subdivision which have the required frontage on and obtain access from a new road by up to the same percentage that open space is preserved in perpetuity in the parcel in excess of the twenty percent (20%) open space requirement for a conventional subdivision:
  - a. The minimum lot size may be decreased provided that the Commission, in its sole discretion, finds that such reduction shall not result in an increase in the number of lots that would otherwise be built on the property.
  - b. The minimum frontage may be decreased.
  - c. The maximum building coverage may be increased as a percentage provided that it shall not exceed the maximum building coverage as an area allowed for a minimum size lot in the underlying zone.
  - d. The maximum impervious coverage may be increased as a percentage provided that it shall not exceed the maximum impervious coverage as an area allowed for a minimum size lot in the underlying zone.
  - e. The minimum setback and yard dimensions may be reduced.
4. The Commission may, in its sole discretion and by a two-thirds vote of the Commission, modify or eliminate the requirements for contiguous buildable area on one or more lots.
5. The Commission may modify any other requirement of the Zoning Regulations, including provisions of Section 20, by a three-fourths vote, provided the following conditions are met:
  - a. The property for which the modification is sought is uniquely affected by these regulations.
  - b. Physical features of the property or its location cause difficulty in meeting the requirements of the zoning or subdivision regulations.
  - c. The granting of a modification will not have a significant adverse effect upon adjacent property or the public health and safety.
  - d. The granting of a modification will not be in conflict with the Plan of Conservation and Development.
  - e. Sound engineering practices shall be followed and approved by the Town Engineer.

#### **20.7. Modifications**

Once approved by the Commission, minor modifications may be approved by the Town Planner and Town Engineer. Any modification that would significantly alter a modification granted by the Commission shall be approved by the Commission.

*To help manage multi-family development, it is recommended that the Special Development District be turned into a zoning district.*

## **Modify Section 8A - Special Development Districts**

### **8A.1 Purpose And Intent**

*No text changes recommended at this time.*

### **8A.2 Definitions**

*No text changes recommended at this time except as follows.*

~~8A.2.1(p) DEVELOPABLE LAND That portion of a parcel of land deemed to be appropriate for development by the Commission, after deducting those portions of the parcel that have slopes in excess of 15% or are in the area of Special Flood Hazard as defined in Section 19.3.19. Only land that is so determined to be developable can be used in calculating the average residential density under Section 8A.5.2.~~

### **8A.3 Applicability**

~~8A.3.1 Section 8A of the East Windsor Zoning Regulations shall apply to all land within the established boundaries of the Town.~~  
No area shall be zoned as a Special Development District unless it is at least four (4) acres and is identified in the Plan of Conservation and Development, as amended, as being potentially appropriate for multi-family development.

### **8A.4 Exemptions And Exceptions**

*No text changes recommended at this time.*

### **8A.5 Types Of Permits**

*No text changes recommended at this time except as follows.*

~~8A.5.1 Subject to appropriate safeguards set forth in this Section 8A, the Town Planning and Zoning Commission may authorize by means of a Special Permit those uses identified in Section 8A.5.2 below on any parcels of land zoned Special Development District. , in the Town of East Windsor which meet either of the following criteria;~~

~~8A.5.2 In addition to any uses otherwise permitted in the zone in which the parcel is situated,~~ Apartment communities, residential condominiums, residential cooperatives, elderly housing, or other like usages may be permitted in a Special Development District, after obtaining a Special Permit. Any such use shall be subject to the density limitations as hereinafter provided, but in no event will there be permitted an average residential density of more than: (a) four (4) dwelling units per acre of developable land on the tract to be developed for non-elderly housing; ~~and or~~ (b) twelve (12) units per acre, or fifteen percent (15%) site coverage, whichever is less, for elderly housing.

#### 8A.6 Fees

*No text changes recommended at this time.*

#### 8A.7 Public Hearings

*No text changes recommended at this time.*

#### 8A.8 Commission Approval

*No text changes recommended at this time.*

#### 8A.9 General Requirements For Granting A Special Permit

*No text changes recommended at this time.*

#### 8A.10 Specific Requirements

*No text changes recommended at this time except as follows.*

##### 8A.10.6 Maximum Coverage and Minimum Open Space Requirements:

8A.10.6.1 No more than 45 percent of the gross land area of the parcel may be covered by buildings, driveways and parking areas. An amount of land equal to .55 times the ~~At least 55 percent of the~~ gross land area of the parcel must be devoted to the provision of livability space which is that space appropriately improved and located on the parcel as outdoor living space for residents and for aesthetic appeal. Such space includes lawns and other landscaped areas, walkways and the areas accessible from them, terraces and sitting areas, outdoor recreation areas, and patios, but which excludes driveways and parking areas. A landscape plan must be submitted for approval by the Planning and Zoning Commission.

8A.10.6.2 Where required by the Commission, at least 3 percent of the gross land area of the parcel must be devoted to the provision of recreation space which is that space appropriately improved for common recreational uses including but not limited to tennis courts, swimming pools, or clubhouses. In general such space shall have a minimum dimension of 50 feet, an average dimension of 100 feet, and a minimum area of 10,000 square feet. A smaller dimension and area are acceptable if 10,000 square feet is more than the total needed for provision of a particular recreation facility such as a tot lot. Such a divergence from this requirement shall be at the discretion of the Planning and Zoning Commission but in no instance shall the total amount of recreation space required for the development be less than 10,000 square feet. Recreation space provided is computed as part of the livability space requirement contained in subsection 8A.10.6.1.

*The “open space” provisions in the SDD regulations are actually nothing more than impervious coverage regulations.*

*This needs to be discussed with the PZC.*

*Provision has been made to allow for narrower road widths.*

8A.10.7.6 All access drives from public street to and from off-street parking areas, service areas, or other areas shall be constructed to the Town of East Windsor road specifications except as follows:

- a. The minimum roadway width shall be 24 feet except that the Commission may, with a positive recommendation from the town planner and town engineer, allow a roadway width of 20 feet where deemed acceptable.
- b. The maximum vertical grade shall be 10%.

8A.10.7.7 The Planning and Zoning Commission may designate, at its discretion, one or more thoroughfares, located within the development as a public right-of-way. Those rights-of-way shall be constructed to the requirements specified in the East Windsor subdivision regulations except that the Commission may, with a positive recommendation from the town planner and town engineer, allow a narrower roadway width where deemed acceptable. Any other thoroughfare, access drive, or service drive not so designated by the commission, and any off-street parking area shall remain under the ownership and control of the owners of the development.

8A.10.7.8 Each development with interior roads in excess of 400' in length shall have a secondary means of egress or emergency access drive, to be a minimum of twenty-four (24) feet paved road constructed in accordance with Section 8A.10.7.6, as approved by the town staff and fire marshal.

#### **8A.11 Change Of Zone**

No development plan or special permit for an apartment, residential condominiums, residential cooperatives, elderly housing, or other like usages ~~an apartment, condominium, or cooperative development~~ shall be approved by the Commission except in a Special Development District.

#### **8A.12 Certificate Of Occupancy**

*No text changes recommended at this time.*

#### **8A.13 Filing**

*No text changes recommended at this time.*

#### **8A.14 Validity And Separability**

*No text changes recommended at this time.*

#### **8A.15 Repealer**

*No text changes recommended at this time.*

#### **8A.16 Effective Date**

*No text changes recommended at this time.*

## Subdivision Regulation Strategies

### Modify Section 1 - Definitions

*No text changes recommended at this time except as follows.*

PLAN OF DEVELOPMENT - means the East Windsor Plan of [Conservation and Development](#), ~~adopted in 1986~~[as amended](#).

### Modify Section 2 - General Conditions

*No text changes recommended at this time except as follows.*

#### 2.6 [Developable Land \(Reserved\)](#)

~~That portion of a parcel of land deemed to be appropriate for development by the Commission after deducting ...~~

#### 2.9 Open Space

The Planning Commission may require the provision and reservation of open space in any subdivision as a condition of subdivision approval to be computed at [20%](#) of the total gross area of the subdivision. The Commission may also accept a fee from the subdivider in lieu of land for open space. Specific requirements are outlined in Section 7.

### Modify Section 5 - The Final Plan

*No text changes recommended at this time except as follows.*

#### [5.7 Landscape Design](#)

1. For any subdivision containing five (5) or more lots, the following materials shall be prepared by a Connecticut licensed landscape architect and submitted with the application:
  - a. a site inventory / analysis map,
  - b. an overall lot / roadway layout plan, and
  - c. if the proposed residential subdivision in the R-3, A-1 or A-2 district is not proposed as a PRD Development under Section 20 of the Zoning Regulations, a conceptual PRD plan.
2. If the Commission is not satisfied with the quality of the analysis prepared by the applicant's landscape architect, it may hire another landscape architect to prepare such analysis and charge the applicant for the cost of such services.

#### [5.8 Traffic Analysis](#)

For any subdivision containing twenty (20) or more lots, a traffic impact analysis shall be prepared by a Connecticut licensed traffic engineer and submitted with the application indicating:

1. the existing traffic conditions in the vicinity of the site
2. the expected traffic generation from the development,
3. the effect of the expected traffic upon the level of service of the streets and intersections providing access to the development.

*A landscape architect is required for any subdivision of 5+ lots and a PRD plan is required if it is not a PRD development.*

*Provision has been made to modify some road widths and cul-de-sac requirements.*

## **Modify Section 6 - Design Information and Criteria**

### **6.1.5 Street Widths:**

*No text changes recommended at this time except as follows.*

Minimum widths for the various street designations shall be as shown in the following table ~~and as shown in Appendix 1 attached:~~

DESIGNATION	RIGHT-OF-WAY	PAVEMENT WIDTH
Major collector street	<u>As determined by the Commission</u>	As determined by the Commission
Minor collector street	Sixty feet (60')	Thirty-six (36) feet
Minor local street	Fifty feet (50')	<u>Twenty-six feet (26')</u>
<u>Cul-de-sac serving less than 20 lots</u>	<u>Fifty feet (50')</u>	<u>Twenty-two feet (22')</u>

### **6.1.7 Cul-de-sac Streets:**

*No text changes recommended at this time except as follows.*

Where cul-de-sac streets are included in a subdivision, they shall not ~~exceed eight hundred feet (800') in length and in no case shall~~ contain more than twenty (20) homes. They shall be equipped with a turn-around which has a minimum right-of-way radius of sixty feet (60') and a minimum pavement radius of fifty feet (50'). On permanent cul-de-sac streets, the Commission may permit a landscaped center island provided that the inside radius of the paved travel way shall be able to accommodate the turning radius of a WB-40 vehicle. When a cul-de-sac is proposed as a temporary measure pending future development of adjoining property, it shall be so designed as to be feasible of continuation in the adjacent tract.

## 6.2 Pedestrian Easements

*No text changes recommended at this time except as follows.*

In areas where the proposed street system does not conform to a convenient pattern of pedestrian circulation, particularly in the vicinity of parks, schools, playgrounds or other public or semi-public places, the Commission may require the establishment of ten foot (10') or wider easements for pedestrian ways and the establishment of a pedestrian pathway.

*Provision has been made for pedestrian pathways and storm drainage management.*

## 6.3 Sidewalks and Pathways

*No text changes recommended at this time except as follows.*

The Commission may require the installation of sidewalks or pedestrian pathways on thoroughfares, in pedestrian easements, on local streets in the vicinity of existing or planned schools and playgrounds and in other places deemed proper by the Commission for the public necessity and safety. When sidewalks are required, plans for the sidewalks shall be shown on the construction plans. Sidewalks shall be a minimum of four feet (4') in width on a six inch (6") processed gravel base with four foot (4') concrete slabs. When pedestrian pathways are required, plans for the pathways shall be shown on the construction plans. Pathways shall be a minimum of four feet (4') in width with an appropriate surface treatment (such as stone dust or other surface material).

## 6.11 Storm Drainage

*No text changes recommended at this time except as follows.*

6.11.6 Unless modified by the Commission upon recommendation of the town planner and town engineer, each subdivision shall make provision for a zero percent increase in the peak rate of runoff from the development compared to pre-development conditions.

6.11.7 Unless modified by the Commission upon recommendation of the town planner and town engineer, each subdivision shall make provision for best management practices (such as infiltration) to reduce the amount of runoff from the development compared to pre-development conditions.

*The entire open space section in the Subdivision Regulations is proposed for modification*

## **Modify Section 7 - Open Space Requirements**

### **SECTION 7 OPEN SPACE REQUIREMENTS**

#### **7.1 Open Space Required**

The Commission shall, except as noted below, require provision be made for preservation of open space as part of every residential subdivision.

#### **7.2 Flexibility of Approach**

1. In accordance with Section 8-25 of the Connecticut General Statutes, such preservation may be accomplished through the dedication of land in the subdivision or through the provision of a fee in lieu of dedication of land or both.
2. The Commission is aware that it is not desirable in all situations to require the dedication of open space land in all subdivisions, particularly those which are small, and because there is a need to treat all subdividers equally, the Commission may, at its discretion, accept a fee in lieu of land dedication from the subdivider for all or any part of the open space, in accordance with the provisions of section 8-25 of the CGS.

#### **7.3 Declaration and Consideration**

1. At the time of filing the formal application for subdivision approval the subdivider shall indicate on the application and final plans whether 20% of the land will be reserved for open space purposes or a fee in lieu of the land for open space will be paid to the town or a combination of land reservation and fee is proposed.
2. The Commission shall consider the proposal and make the final determination after negotiating with the subdivider as to whether land shall be dedicated, a fee levied or any combination thereof shall occur. The Commission's decision shall be based on an examination and evaluation of :
  - a. The Town's existing and proposed recreation elements, proposals in the town's Plan of Development and recommendations of the Park and Recreation Commission and Inland Wetland / Conservation Commission.
  - b. The topography, geology, access and location of land within the proposed development and
  - c. The size and shape of the development and its relation to other proposed developments in the immediate area.

#### **7.4 Dedication Requirements**

1. Where the open space requirement will be met, in whole or in part, through the dedication of land, the total area reserved for open space shall equal or exceed twenty percent (20%) of the total land area of the subdivision.
2. To satisfy all or a portion of the open space requirements of a subdivision, the Commission may consider lands located elsewhere in East Windsor.
3. When the subdivision is a portion of a larger parcel of land, the Commission may consider dedication of an area of land in the undeveloped part of the parcel but outside of the proposed area of the subdivision.

4. The Commission may determine the area to be preserved as open space on the parcel being subdivided in order to:
  - a. preserve important natural resources,
  - b. preserve scenic areas,
  - c. preserve agricultural lands,
  - d. provide for the establishment of a greenway, or
  - e. expand adjacent open space areas.
5. The ultimate ownership of dedicated open spaces, parks and playgrounds - be it the Town of East Windsor, a land trust, or a recognized conservation organization - should be determined by the Commission on a case-by-case basis at the time of subdivision approval after considering such factors as:
  - a. the function and location of the parcel,
  - b. its intended users/beneficiaries, and
  - c. the amount and cost of the future maintenance.
6. When dedication of land is provided to the Town, the dedication shall be approved by the Town Attorney prior to the approval of the subdivision by the Commission.

#### **7.5 Fee In Lieu Requirements**

1. Where the open space requirement will be met, in whole or in part, through the payment of a fee, a flat fee of \$x,xxx shall be received for each lot regardless of zone, or the subdivider may instead pay a fee equal to ten percent (10%) of the fair market value of the land to be subdivided prior to the approval of the subdivision. If there is any dispute, the fair market value shall be determined by an appraiser jointly selected by the Commission and the subdivider at the subdivider's expense.
2. If payment of a fee is proposed, the Commission may refuse such fee if it determines, in its sole discretion, that there is one or more areas on the parcel being subdivided which should be preserved through dedication of land.
3. When a fee in lieu of land is accepted by the Commission, the subdivider may elect, at his or her option, to pay the fee to the Town Treasurer prior to filing the approved subdivision with the Town Clerk.
4. If the applicant chooses not to pay the fee prior to the recording of the subdivision then the pro-rated fee for each lot shall be paid to the Town Treasurer at the time of the first sale or transfer of each approved lot in the subdivision. The fee due the Town of East Windsor shall constitute a lien against each individual lot and shall be so noted on the land records of the Town. The Commission, or its designated agent, shall cause such lien(s) to be discharged upon notice by the Town Treasurer that the fee for an individual lot has been paid.
5. The Town Treasurer shall place all fees collected under the provisions of this regulation in a special fund appropriately named to be used at some future date for the purpose of preserving open space or acquiring additional land for open space or for recreational or agricultural purposes.

*It would appear to be time to update the "per lot" fee and find a way to keep it up to date (Town Assessor to estimate pre development value).*

## **7.6 Exemptions**

1. The open space requirements of this section shall not apply if the transfer of all land in a subdivision of less than five parcels is to a parent, child, brother, sister, grandparent, grandchild, aunt, uncle or first cousin for no consideration provided, however, that the waiver of the provisions for open space fees shall be noted on the land records along with a notice stating that any lot subject to the waiver shall be liable for its proportional share of the total fee at the time of subsequent sale or transfer to a person not exempt under this subsection if such sale or transfer occurs within five years of the original subdivision approval.
2. The open space requirements of this section shall not apply if:
  - a. a subdivision meets the requirements for an affordable housing, development under Section 8-30g of the Connecticut General Statutes, or
  - b. the Commission elects to exempt the proposed subdivision since it will contain affordable housing, as defined herein, equal to twenty percent or more of the total housing to be constructed in such subdivision.

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## **Remaining Issues For Discussion**

1. Prepare a conservation design manual for property owners, developers, engineers?
  2. Require provision be made for affordable housing such as requiring as part of every subdivision (unit or fee in lieu) or requiring a fee as part of every zoning permit?
  3. Incorporate an aquifer protection zone map into the POCD
  4. Incorporate a Residential Densities Plan into the POCD
  5. Map areas in the POCD where multi-family development may be appropriate
  6. Develop a Sidewalk / Trail Plan in the POCD to tie to regulations
  7. Incorporate a Sewered Area / Sewer Avoidance Area Plan into the POCD along with other recommendations
  8. Make local / regional / state plans as consistent as possible
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**Planimetrics**

31 Ensign Drive, Avon, CT 06001

860-677-5267